

APPEAL NO. 020607
FILED APRIL 17, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on February 5, 2002. With respect to the disputed issues, the hearing officer determined that the appellant (claimant) did not sustain a compensable injury; that the respondent (carrier) is relieved from liability under Section 409.002 because of the claimant's failure to timely notify the employer pursuant to Section 409.001; and that the claimant did not have disability. The claimant appeals these adverse determinations on sufficiency of the evidence grounds. The carrier replies, urging affirmance.

DECISION

Affirmed.

The claimant contended that he sustained an injury to his low back on _____; that he reported the injury to his dispatcher/supervisor that same day; and that he had disability from May 25, 2001, through the date of the CCH. The evidence presented factual questions for the hearing officer to resolve. The claimant had the burden to prove that he was injured in the course and scope of employment, that he gave timely notice of his injury to his employer under Section 409.001 or had good cause for failing to timely notify his employer of his injury, and that he has had disability as defined by Section 401.011(16). Conflicting evidence was presented at the CCH. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). We conclude that the hearing officer's determinations are supported by sufficient evidence and that they are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TRINITY UNIVERSAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RONALD I. HENRY
10000 NORTH CENTRAL EXPRESSWAY
DALLAS, TEXAS 75230.**

Michael B. McShane
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Philip F. O'Neill
Appeals Judge